

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

U.S. ETHERNET INNOVATIONS, LLC,

Plaintiff,

v.

ACER, INC.; ACER AMERICA  
CORPORATION; APPLE, INC.; ASUS  
COMPUTER INTERNATIONAL; ASUSTEK  
COMPUTER, INC.; DELL, INC.;  
FUJITSU, LTD.; FUJITSU AMERICA,  
INC.; GATEWAY, INC.; HEWLETT  
PACKARD CO.; SONY CORPORATION;  
SONY CORPORATION OF AMERICA; SONY  
ELECTRONICS INC.; TOSHIBA  
CORPORATION; TOSHIBA AMERICA,  
INC.; and TOSHIBA AMERICA  
INFORMATION SYSTEMS, INC.,

Defendants,

INTEL CORPORATION; NVIDIA  
CORPORATION; MARVELL  
SEMICONDUCTOR, INC.; Atheros  
COMMUNICATIONS, INC.; and  
BROADCOM CORPORATION,

Intervenors.

No. C 10-3724 CW

ORDER SEVERING  
THIRD-PARTY  
PLAINTIFF APPLE  
INC.'S CLAIMS  
AGAINST THIRD-  
PARTY DEFENDANT  
ORACLE AMERICA,  
INC. AND STAYING  
THE ACTION UNTIL  
THE UNDERLYING  
CASE IS RESOLVED  
(Docket No. 939)

On December 13, 2013, Third-Party Plaintiff Apple, Inc.

(Apple) and Third-Party Plaintiff Oracle America, Inc. (Oracle)  
submitted a joint request to stay the third-party action between  
Apple and Oracle until the underlying action between Apple and  
U.S. Ethernet Innovations, LLC (USEI) is resolved. Because the  
indemnification claims in the third-party action rest heavily on  
the outcome of the underlying action, the Court agrees that such a  
stay would serve the interests of judicial economy. The Court  
additionally finds that severance of the third-party action is

1 appropriate under Federal Rule of Civil Procedure 14. See Fed. R.  
2 Civ. P. 14(4) ("Any party may move to strike the third-party claim,  
3 to sever it, or to try it separately"); Id. Advisory Committee  
4 Notes ("the court has discretion to strike the third-party claim  
5 if it ... can only delay or prejudice the disposition of the  
6 plaintiff's claim ... or accord it separate trial if confusion or  
7 prejudice would otherwise result"). See also Sw. Administrators,  
8 Inc. v. Rozay's Transfer, 791 F.2d 769, 777 (9th Cir. 1986).

9 Accordingly, IT IS HEREBY ORDERED that:

10 (1) The third-party action between Apple and Oracle shall be  
11 severed from the underlying action. The Clerk of the  
12 Court shall assign a new case number to the third party  
13 action and transfer the third-party complaint,  
14 counterclaim complaint, and any accompanying answers to  
15 the new action's docket. The new action shall remain  
16 assigned to the undersigned and shall not result in  
17 statistical credit.

18 (2) Apple's claims and Oracle's counterclaims shall be  
19 stayed completely in the new action, pending resolution  
20 of the underlying action. Oracle shall not, however,  
21 use the stipulation or stay to avoid discovery  
22 propounded by Apple related to the patent infringement  
23 claims in the underlying action.

(3) As provided in their stipulation, neither Apple nor Oracle waive any rights, remedies, claims by stipulating to the stay; all such rights, remedies, and claims are preserved.

IT IS SO ORDERED.

Dated: 12/18/2013

  
CLAUDIA WILKEN  
United States District Judge